

## **REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 21-49 are in the case.

### **I. THE INTERVIEW**

At the outset, the undersigned wishes to thank the Examiner for kindly agreeing to conduct an interview in this case. The interview was held on February 16, 2007, and the courtesies extended by the Examiner were most appreciated. The outstanding prior art rejections were discussed and although no formal agreement was reached, the Examiner indicated that in his view the recitation of additional structure in the main claim to further distinguish the cited art would be of assistance. Based on that indication, and without prejudice to the possibility of pursuing claims in a separate continuing case having a scope which is the same as or similar to that as the originally presented claims, claim 21 has been amended to include further structural features. This amendment is discussed in more detail below.

### **II. THE PRIOR ART REJECTIONS**

Claims 21-23, 25-37, 39-41 and 43-49 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent 5,520,166 to Ritson, et al, in view of U.S. Patent 5,334,019 to Goldsmith. Claims 24, 38 and 42 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Ritson in view of Goldsmith. Those rejections are respectfully traversed.

As now claimed, the actuator for an inhaler for delivering medicament by inhalation, comprises a main body comprising a tubular member for receiving a canister containing medicament and having a valve stem extending therefrom; and an outlet assembly, as a part formed separately of the main body, comprising a mouthpiece for guiding medicament to the mouth of a user and a nozzle block for receiving the valve stem of the canister and delivering medicament from the canister into the mouthpiece; wherein the outlet assembly comprises at least one member connecting a lower part of the mouthpiece with a lower part of the nozzle block and at least one member connecting an upper part of the mouthpiece with an upper part of the nozzle block. At least one of the members connecting the mouthpiece with the nozzle is formed with a weakened section, and the outlet assembly comprises a catch member arranged to apply a deforming force on the weakened section of the connecting member on withdrawal of the outlet assembly from the main body.

Ritson describes a medication cassette for an automatic aerosol medication delivery system. At column 8, line 60-63, Ritson discloses that the cassette components (i.e., housing, mouthpiece and canister) "cannot be non-destructively disassembled so that the cassette cannot be subsequently operatively reassembled and used." However, Ritson does not describe how and what should break during disassembly. Referring to the embodiment disclosed in Figs. 4 and 5, disassembly of the housing and the mouthpiece would likely result in deformation of the tabs 42 on the housing and/or the corresponding apertures 28 on the mouthpiece, thereby only affecting the means for connecting the two components, and leaving the functional parts, including the nozzle block 21 and its support structure 29, unaffected. In that

event, the Ritson mouth piece would still be functional and could be reused to actuate a canister in a simple manner, with or without the housing.

The present invention as now claimed specifies that the outlet assembly (which directly corresponds to the mouth piece according to Ritson) comprises at least one member connecting a lower part of the mouthpiece with a lower part of the nozzle block and at least one member connecting an upper part of the mouthpiece with an upper part of the nozzle. Moreover, at least one of the members connecting the mouthpiece with the nozzle is formed with a weakened section, and the outlet assembly comprises a catch member arranged to apply a deforming force on the weakened section of the connecting member on withdrawal of the outlet assembly from the main body. This is supported by the discussion beginning at page 6 line 16 of the originally filed specification, in relation to the structure of the outlet assembly 4, and particularly at page 8, beginning at line 17. No new matter is entered. Entry of the amended claims is respectfully requested.

It is clear that Ritson does not anticipate the invention as now claimed. Withdrawal of the anticipation aspect of the rejection is respectfully requested.

With regard to obviousness, Ritson clearly does not suggest the invention as now claimed. There is nothing in Ritson which would have motivated one of ordinary skill to arrive at the structure as claimed having an outlet assembly comprising a catch member arranged to apply a deforming force on the weakened section of the connecting member on withdrawal of the outlet assembly from the main body.

The above-noted deficiencies of Ritson are not cured by Goldsmith. Goldsmith is relied upon for an alleged disclosure of a breakaway tab for preventing reattachment

and reuse of the nozzle. Goldsmith is otherwise irrelevant to the presently claimed invention. One of ordinary skill would not have been motivated to combine the disclosures of Ritson and Goldsmith and, even if such a combination had been attempted (it is believed that would not have occurred to one of ordinary skill), the presently claimed invention would not have resulted or have been rendered obvious thereby. Absent any such motivation, a *prima facie* case of obviousness does not exist in this case. Reconsideration and withdrawal of the outstanding obviousness rejection are accordingly respectfully requested.

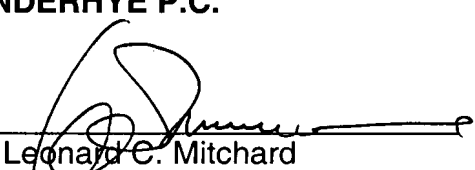
Claims 24, 38 and 42 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Ritson in view of Goldsmith. In response, these claims are dependent claims and, as such, incorporate the features of the independent claims which define novel and patentable subject matter over the cited art for the above reasons. No *prima facie* case of obviousness has been generated against these dependent claims. Withdrawal of the obviousness rejection of claims 24, 38 and 42 is respectfully requested.

Favorable action is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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